

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7625 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE J.M.PANCHAL

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

DHANSURA PEOPLES CO OPERATIVE BANK LTD. AND ANR

Versus

CHIMANLAL CHHOTALAL SHAH

Appearance:

MR TUSHAR MEHTA for Petitioners

MR BS PATEL for Respondent

CORAM : MR.JUSTICE J.M.PANCHAL

Date of decision: 10/01/97

ORAL JUDGEMENT

Rule. Mr. B.S.Patel, learned Counsel waives service of notice of rule on behalf of the respondent.

At the request of learned Advocates appearing for the parties, the petition is heard today.

By means of filing this petition under Articles

226 & 227 of the Constitution, the petitioner has prayed to issue a writ of mandamus or any other appropriate writ, order or direction to quash and set aside the order dated September 23,1996 rendered by Gujarat State Co-operative Tribunal, below application exh.4, which was filed in Revision Application no.191/96.

The petitioner is a registered Co-operative Society. On June 20,1996 the petitioner issued an agenda calling annual general meeting on July 7,1996, wherein one of the items to be transacted, was the election of the President for the year 1996-97. By communication dated July 5,1996 the District Registrar of Co-operative Societies asked the petitioner-Bank to send written consent of the contesting candidates and hold election by secret ballots. It is the case of the petitioner that on July 6,1996 Mr. H.C.Patel who is second petitioner, was declared elected as President of the petitioner-Bank for the year 1996-97. The respondent has filed Lavad Case no.508/96 in the court of Board of Nominees, Mehsana Division, Mehsana challenging the election of petitioner no.2 as President of the petitioner-Society. During the pendency of the suit, respondent no.2 filed application exh.6 and prayed the Court to grant interim relief. The Court directed the petitioner to hold election within 21 days by secret ballots. The petitioner, therefore, has filed revision application before the Tribunal being Revision Applicatioin no.191/96. During the pendency of the said revision application, the petitioner filed application exh.4 and prayed to grant interim relief. The application exh.4 is rejected by the Tribunal vide order dated September 23,1996, giving rise to the present petition.

The petition was placed for admission hearing before Court on October 9,1996 and after hearing the learned Counsel for the petitioners, notice was issued making it returnable on October 14,1996. On October 14,1996, Court extended interim relief which was earlier granted by the Tribunal. The said relief has continued till today.

On the facts and in the circumstances of the case, I am of the opinion that interest of justice would be served if the Tribunal is directed to dispose of the main revision application on merits within stipulated time and operation of order dated August 20,1996 passed by the Board of Nominees,Mehsana Division, Mehsana below exh.6 in Lavad Case no.506/96 as well as order dated September 23,1996 passed by the Tribunal below application exh.4 in Revision Application no.191/96 is kept in abeyance.

For the foregoing reasons, the petition partly succeeds. Gujarat State Co-operative Tribunal is directed to dispose of Revision Application no. 191/96 on merits and in accordance with law as early as possible and latest by February 10,1997. Till the revision applicatioin is heard, operation of order dated August 20,1996 passed by the Board of Nominees, Mehsana Division,Mehsana below application exh.6 in Lavad Case no.506/96 as well as order dated September 23,1996 passed by the Gujarat State Co-operative Tribunal below application exh.4 which was filed in Revision Application no.191/96 is stayed. Rule is made absolute to the extent indicated hereinabove, with no order as to costs.

Office is directed to send writ to the Tribunal immediately. It would also be open to any of the parties to produce copy of this order before the Tribunal for necessary compliance.

=====